IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.955 OF 2005
IN
CHAMBER SUMMONS NO.11 OF 2005
IN
EXECUTION APPLICATION NO.183 OF 2004
IN
SUMMARY SUIT NO.1510 OF 2002

M/s..G.M.Breweries Ltd. ..Plaintiffs.

V/s.

M/s.Siddhivinayak Builders & Anr...Defendants.

And

Mrs. J.N.Mehta. ..Applicant.

Mr. O.A.Das for Plaintiffs.

Ms.Sumedha Rao for applicant.

CORAM: A.M.KHANWILKAR,J

DATE : AUGUST 22, 2005.

P.C. :

1. Heard counsel for the parties. Perused the pleadings.

2. The case made out in the affidavit in support of the chamber summons is that on 12th July, 2005, due to inadvertence, matter was not attended by the advocate on record. It is stated that it is mistake of the clerk, who missed out to take note of the matter on board. Mistake of the clerk to take notice

the matter is not sufficient cause for the advocate on record who is supposed to be watchful whether the matter is notified or not. In that sense, the reason mentioned for recalling of the order, in my opinion, is not sufficient cause. However, by way of indulgence and with a view to give opportunity to the applicant, chamber summons is made absolute on condition that the applicant shall pay costs quantified at Rs.3,000/- to be paid to the plaintiffs, on or before 25th August, 2005 as condition precedent, for restoring the chamber summons No.11 of 2005.

3. If cost is paid in time to the plaintiff, chamber summons No.11 of 2005 will be restored to its original number, to be heard on 29th August, 2005.

4. Chamber summons is disposed of in the above terms.